

REMARKS

Without acquiescing to the propriety of the rejections in the Office Action dated January 21, 2003, claims 1, 7, 8, 9, 24, 28, 34, and 40 have been amended. Entry of these amendments, reconsideration of the application, and allowance of all claims pending herein is respectfully requested in view of the remarks below. Claims 1-18, 21, 23-32, 34-36 and 40-41 are pending and under consideration.

Drawing Objections:

The drawings are objected to under 37 C.F.R. § 1.83(a) as failing to disclose every feature of the invention specified in the claims. Specifically, it is alleged that the “nozzle” in claim 7 is not shown and should be shown or the feature cancelled from the claim. Claim 7 has been amended to recite that at least one outlet is adapted to provide a water-air froth to the interior of the hydrotherapy tub, as described on pages 6 and 7 of the specification. Thus, it is respectfully submitted that this objection is overcome.

Specification Objections:

This specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. Specifically, claim 18 is objected to because the phrase “means for providing” in claims 28 and 30 and the “method” language in claims 34 and 40 could not be found in the specification. Claim 18 has been revised to provide antecedent basis for the claimed elements recited therein. No new matter has been added. Instead, elements which were inferentially claimed are explicitly claimed. Because these elements were previously claimed, although inferentially, they were present in the application as filed and therefore supply their own support.

Regarding the allegation that “means for providing” in claims 28 and 30 does not include proper antecedent basis, and it is respectfully submitted that such support is included in the specification. A means plus function claimed element under § 112, sixth paragraph, incorporates the disclosure of the specification and drawings of the element including the details of how a function is performed *Multiformed Desiccants., Inc. v Medzam Limited LTD.*, 45 U.S.P.Q. 2d 1429,1433-34 (FED. CIR. 1998). The specification clearly discloses a plurality of jets of water-air froth being provided to an interior of the hydrotherapy tub through water and air chambers, which receive water and air from water and air inlets thereof. For example, a plurality of streams of water-air forth is disclosed on page 6 of the specification while water and air chambers are described on pages 4 and 5 of the specification, among other locations. Thus, it is believed that this rejection is overcome.

§ 112 Rejections:

Claims 7-9 stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification to enable one skilled in the art to make and/or use the invention. Specifically, claim 7 is rejected because the word “nozzle” is alleged to not be disclosed nor evident to the Examiner. Claim 7 has been amended to remove the recitation of the “nozzle” and thus this objection is believed to be overcome. However, nozzles are described on pages 1, 6, and 7 of the specification. Further, Merriam Webster’s Dictionary (www.m-w.com) defines a nozzle as a projecting vent, a short tube with a taper or constriction used to speed up or direct a flow of fluid. Thus, it would be clear to one skilled in the art from the specification and a simple dictionary definition what was recited in former claim 7. Also, claims 8 and 9 have been amended to conform them to the changes to claim 7 and to correct a typographical error in claim 8.

§ 102 Rejections:

Claims 1-6, 10, 16-18, 21, 23-32, 34-36, 40 and 41 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Martin (U.S. Patent No. 1,982,260). The Office Action alleges that Martin discloses a body having a water inlet and an air inlet, means for providing a plurality of jets, a water chamber, an air chamber and a hydrotherapy tub.

Claim 1 of the present application recites a fluid flow system for a hydrotherapy tub which includes a body and a plurality of outlets. The body is configured to be attached to a hydrotherapy tub through a wall of the tub and further includes a first chamber and a second chamber. The first chamber is configured to receive water through an opening in the wall and the second chamber is configured to receive air through the opening in the wall. The plurality of outlets is in fluid communication with the first chamber and the second chamber, and the outlets are configured to transmit water from the first chamber and air from the second chamber to an interior of the hydrotherapy tub.

Martin discloses an apparatus for insertion into a bathtub which is placed on an interior surface of the tub and receives fluid through conduits which pass through an interior fluid containing portion of the bathtub. However, there is no disclosure of the apparatus in Martin being attached through a wall of a hydrotherapy tub nor such an apparatus receiving water and air through an opening in the wall of a hydrotherapy tub. Instead, Martin discloses an apparatus insertable into an interior fluid containing portion of a tub but does not disclose it being mounted through a wall of the tub nor receiving fluids through a hole in a wall of the tub. Therefore, because the features of claim 1 of the present application are not identically disclosed in Martin, claim 1 cannot be anticipated thereby. The claims depending on claim 1 are believed to be allowable for these reasons and for their own additional features. Claim 24 recites a hydrotherapy tub which includes the elements of claim 1. Thus, claim 24 is believed to be allowable for these reasons as are the claims depending from claims 1 and 24.

Claim 28 recites, *inter alia*, a body configured to be mounted to a hydrotherapy tub through a wall of the tub and a water and an air inlet configured to receive water and air, respectively, through an opening in the wall. Further included is means for providing a plurality of jets of water-air froth to an interior of the tub. As described above, Martin does not disclose a body configured to be mounted through a wall of a hydrotherapy tub nor water and air being received through an opening in such a wall. Therefore, because the elements of claim 28 are not identically disclosed by Martin, it is respectfully submitted that this claim is allowable along with the claims depending therefrom. Claims 34 and 40 are believed to be allowable for the same reasons. Claims 35, 36, and 41 are believed to be allowable for the same reasons as their base independent claims and for their own additional features.

§ 103 Rejections:

Claim 7-9 stand rejected under 35 U.S.C. § 103(a) as being obvious over Martin and Hart et al. It is alleged that it would be obvious to incorporate a nozzle disclosed in Hart into the Martin device. These claims have been amended to remove the references to a nozzle as described above. Thus, these claims are believed to be allowable.

Claims 11-15 stand rejected under 35 U.S.C. § 103(a) as being obvious over Martin and Guiler. Guiler is alleged to disclose conical structures which would be obvious to incorporate into the Martin device to arrive at the subject matter of the referenced claims. Because these rejections rely on the §102 application of Martin, these claims are believed to be allowable for the same reasons as claim 1 along with the additional features of the conical structures. Therefore, these claims are believed to be allowable.

Also, claim 18 was amended to further clarify the subject matter recited therein.

CONCLUSION

It is believed that the application is in condition for allowance, and such action is respectfully requested.

If a telephone conference would be of assistance in advancing prosecution of the subject application, Applicant's undersigned attorney invites the Examiner to telephone him at the number provided.

Respectfully submitted,



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Dated: April 21, 2003

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